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RUHL JACOB BARTLETT, M. A.

Prepared as a Master's Thesis at the University of Cincinnati
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THE STRUGGLE FOR STATEHOOD IN OHIO

BY RUHL JACOB BARTLETT, M. A.

The admission of Ohio as a state into the Union marked the end of a long and bitter political contest both within and without the Northwest Territory.* It was that age old conflict between the forces that are progressive and those that are conservative, for it must be remembered that the closing years of the 19th century marked a period of rapid political transition in American history. The colonists who had so gallantly adorned themselves in new garments of political liberty and equality in 1776 found that their desires had grown by 1800 to a demand for additional plumage, in the way of popular government. The pre-Revolutionary leaders as well as those who had piloted the new government through its first twelve years of existence, did not look with favor upon the too rapid growth of democratic ideals, but were content with the old.

Unaided then, by these Revolutionary fathers, a great political renaissance had taken place in the minds of the American people. The Revolutionary War and the new responsibility after the war was in a great measure the cause of the change. New England colo-

* This seems to be the best designation for the land that was governed by the Ordinance of 1787. It was first known as the Northwestern Territory and subsequently was legally named The Territory of the United States Northwest of the Ohio River. Most writers have adopted either the title, Northwest Territory or simply The Territory; but Judge Jacob Burnet and William Maxwell write of it as the Northwestern Territory.

nists, who never in their lives had travelled a dozen miles from their native town, and Virginia colonists, who had not looked beyond their native valleys, were brought into contact by the war. Their intellectual and political horizon was extended and a national consciousness was born, which in its travail brought forth the desire for a more democratic form of government. This contest, that was shaking the people of the original states, inevitably was carried to the rapidly increasing population of the western lands. The conflict in the west took the form of a controversy over the admission of Ohio, as a state into the Union, and extended over a period of four years, from 1799 to 1803. But the forces of reform had been brewing before 1799, and therefore it will be necessary for us to consider briefly the early history of Ohio, in order to understand fully the feelings of its inhabitants, which caused them to be either such strong supporters or such fervent enemies of statehood.

The fertility of the Ohio valley had for a long time been a matter of common knowledge to the colonists of America. For its possession the French and Indian War was fought, and for it also the heroic George Rogers Clark led his intrepid band to Kaskaskia during the winter of 1778-9. After the Revolution, settlers began to migrate to this land, without much regard for the rights of the states to which it belonged. These rights, either authentic or fictitious, formed the subject of much long and bitter discussion among several of the states, and Congress had at an early time, made an attempt at conciliation by assuming control, with the consent of the states, of the disputed Territory.

In 1787 Congress perfected a system of government

for the Territory of the United States northwest of the Ohio river. For the purpose of this paper, suffice it to say, that the government of the new Territory was administered by a governor and three judges, appointed by the President. General Arthur St. Clair was chosen by the Continental Congress first governor of the Ohio country, and on the 9th of July, 1788, the new executive completed his long journey across the mountains of Pennsylvania and arrived at Marietta.¹ On the 15th of the same month, and in the presence of the small but sturdy band of pioneers who had gathered in the Campus Martius of Marietta, the Governor assumed formal possession of the Territory.²

The succeeding ten years of Ohio's history is economic and industrial rather than political. It was a decade of migration, of settlement and development, of home seeking and home building, and of Indian wars. Nevertheless this was an important period in the history of Ohio and of particular significance for the subject under discussion, for the people who came to Ohio during this period were to determine the political character of the government. Of these immigrants there were two distinct classes politically; those who came from the east and those who came from the south. The pioneers from the Federalist states, Massachusetts and Connecticut, very naturally settled in eastern Ohio, thus making the cities of Marietta and Cleveland the centers of the Federalist party in the Territory, while on the other hand, the Republicans of Virginia and Kentucky just as naturally settled in central and western Ohio, making Chillicothe the center of republicanism.

¹ Randall and Ryan—*History of Ohio*, Vol. 2, p. 465.

² Rufus King—*Ohio*, p. 199.

The government in the Territory from 1788 to 1798 reflects the personality and political theory of Governor St. Clair. He had been schooled in New England ideas of government, and of course carried these ideas with him to the western country. He shared in the political beliefs of Washington and Adams, which, as mentioned at the outset, were considered liberal in 1776 but became somewhat conservative in 1800. The character of his government, therefore, was autocratic rather than democratic. Culprits were punished by fines, the pillory or the stocks, and people were put into prison or sold into slavery for debt.³ Everywhere and in any case, the will of the Governor was absolute.

This condition of government made the character of the emigration to Ohio of great importance. The people who came from the cities of New England were accustomed to a strong centralized government and, in some measure, to the rigorous regulation of lives by law. Therefore, they did not fret under the sturdy administration of Governor St. Clair. On the other hand, those adventuresome frontiersmen of western Virginia and Kentucky, who, impelled by the western rush of population, crossed the Ohio river from the south and southeast and settled in southern and western Ohio, were unaccustomed to administrative control, and hence somewhat dissatisfied with the government. It is of importance, then, to keep these two types of immigrants in mind, for out of them, were to develop two factions which dominated the political thought of the Territory

³ Randall and Ryan — *History of Ohio*, Vol. 2, p. 466, also Daniel J. Ryan — *Ohio*, p. 49.

and whose influences can be traced through fifteen or twenty years of Ohio's history.⁴

The Territory grew so rapidly in population that by 1798 it contained 5000 free male inhabitants, which, according to the Ordinance of 1787, was required for the establishment of a Territorial Legislature. Accordingly, in December of 1798, Governor St. Clair ordered an election to be held for the purpose of electing members for such a body.⁵ Any freeholder of fifty or more acres of territorial land, who was a citizen and had resided within the Territory for two years, possessed the right of suffrage. The candidate for office, however, was required to be a freeholder of 200 or more acres of territorial land in addition to the qualifications of voters. Under these conditions twenty-two men were elected to compose the first legislature of the Territory.

The representatives met at Cincinnati, February 4, 1799.⁶ Their first duty, in pursuance of the Ordinance of 1787, was to nominate ten men of the Territory, who were freeholders of at least 500 acres of land, and from whom the President would select five to compose the Legislative Council.⁷ Having made these nominations the legislature adjourned to meet again at the same place on September 16, 1799.⁸ On September 24, 1799, the Governor addressed the Legislature, congratulated them on the formation of the new government, and called their attention to the problems which, in his opinion, should receive their attention.⁹ The

⁴ The influence of the ardent states' rights supporters was shown in the "Sweeping Resolutions" and the National bank case.

⁵ *Western Spy and Hamilton Gazette*, December 8, 1798.

⁶ W. H. Smith — *The St. Clair Papers*, Vol. 1, p. 207.

⁷ Jacob Burnet — *Notes on the Northwestern Territory*, p. 228.

⁸ *Ibid.*, p. 292.

⁹ *Western Spy*, September 31, 1799.

Legislative Council sent an exceptionally laudatory reply to the Governor, but the reply of the Assembly, though polite and respectful, obviously lacked the profuse praise contained in the reply of the Council.¹⁰

In order to understand the subsequent history of the Territory, we must first analyze the *status quo* of the Governor since the establishment of the Legislature. First and most important of all, he possessed the power of absolute veto on all legislative acts. His appointive power extended over all justices of the peace and army officers, and he licensed all lawyers and innkeepers. In short, no legislative or administrative act could be completed without his knowledge and approval.¹¹ These were not new or additional powers that had been bestowed upon him, but the exercise of them in any arbitrary fashion had a new significance owing to the existence of the Legislature.

It is the opinion of some writers that the Legislature registered its disapproval of the Governor's regime, when, in their first official act, they selected William Henry Harrison to represent the Territory in Congress, instead of Arthur St. Clair, jr., the son of the Governor. There is further significance to this act when it is understood that Mr. Harrison was a strong Anti-Federalist and hence a political enemy of the Governor.¹² However that may be, the first real clash of authority between Governor St. Clair and the Legislature was over the right to subdivide counties and locate their seats of government. Until February 4, 1799, the Governor had undisputed power to establish the bounda-

¹⁰ *Western Spy*, October 8, 1799.

¹¹ Burnet—*Notes on the Northwestern Territory*, p. 375.

¹² *Western Spy*, October 8, 1799—The President of the first Legislature was Edward Tiffin and the Secretary was John Riley.

ries of counties and to designate the county seat, but since the establishment of the Legislature, a good many people of the Territory, and the majority of the members of the Legislature itself, believed that this power rested no longer with Governor St. Clair.¹³

Nathaniel Massie seemed to be the leader of the opponents of the Governor on this question. Mr. Massie had migrated to the Territory from Kentucky,¹⁴ which at that time, was a center of democratic ideals, and under the influence of Thomas Jefferson.¹⁵ He had started a settlement at Manchester in Adams County, and wished a county seat to be located at that place. About the middle of October, 1799, a petition from the citizens of Adams County was presented to the Legislature, asking that Manchester be made the county seat.

On November 5, the Legislature granted the petition, and sent the bill to the Governor for his signature.¹⁶ The Governor vetoed the measure, as he did six other bills of similar nature passed during the first legislative session,¹⁷ and located the county seat at Adamsville. He later tersely remarked that the jurisdiction in the case rested with himself and that after investigation, he had found Adamsville to be the more suitable place for a seat of government.¹⁸

Other marked differences of opinion arose between the Legislature and the Governor, and in this connection, two acts of the Legislature are of significance: 1st, an act abolishing the property qualifications for voting,

¹³ *Western Spy*, October 15; November 5, 1799.

¹⁴ David Meade Massie — *Life of Nathaniel Massie*, Cincinnati, 1896, p. 52.

¹⁵ Robert Chaddock — *Ohio Before 1850*, New York, 1908, p. 49.

¹⁶ *Western Spy*, November 5, 1799.

¹⁷ S. P. Chase — *Statutes of Ohio*, Vol. 1, p. 29.

¹⁸ *Western Spy*, December 24, 1799.

and thereby extending the suffrage to all free male inhabitants over twenty-one years of age;¹⁹ and 2d, a resolution remonstrating with Congress against the unrestricted veto power of the executive.²⁰ The extension of suffrage bill was promptly vetoed by the Governor.

There was a conflict of authority then, between the Governor and the representatives of the people, as soon as those representatives had a legal means to express their opinions. These differences of opinion concerning the rights of government in the Territory, were, in themselves trivial and local, but in their principles, were fundamental and national. The strong desire on the part of the people of the Territory for local self government was very similar to the democratic movement which swept through the old states and elected Thomas Jefferson to the Presidency in the fall of 1800.²¹

Under the existing conditions in the Territory, there seemed little chance for reform. The veto of the Governor was absolute, the Council was not responsible to the people, and the Legislature was elected by a limited suffrage. The leaders of the reform movement, therefore, began to look forward to the time when the eastern part of the Territory would have a sufficiency of population to entitle its admission into the Union as a state, and they made known their desires.

The Governor was not in sympathy with the liberal movement, but was alive to its existence, and made early attempts to hinder its progress and prevent its success. On February 18, 1800, he wrote a letter to the Territorial Representative, Mr. Harrison, in which he pro-

¹⁹ Smith — *St. Clair Papers*, Vol. 2, p. 447, et seq.

²⁰ *Ibid.*, p. 449.

²¹ Chaddock — *Ohio Before 1850*, p. 60 et seq.

posed a division of the Territory, for the purpose of government. In view of later events it is important to know the boundaries of this proposed division. The eastern division was to include the lands of the Territory which lie between the Pennsylvania boundary and a line drawn north from the forks of the Scioto River to the Indiana boundary, and thence to the northwest corner of the Connecticut Reserve. The central division extended westward from the eastern division to a line drawn north from the falls of the Ohio to the mouth of the Chicago River. The western division extended westward as far as the Mississippi river. The capitals of these several divisions of land were to be Marietta, Cincinnati and Vincennes respectively.²² The Governor went on to state, in his letter to Mr. Harrison, that his opposition to the use of the Miami and Wabash Rivers as boundary lines, was based on two points: The eastern division would be too large, and the Indian claims to much of the western land was not as yet extinguished.²³

However sincere the Governor may have been in stating his reasons for division to Mr. Harrison, he at least had other motives which he did not reveal to the representative. These other schemes he communicated to his friend, Senator Ross of Pennsylvania, in a letter dated December, 1799. To the Senator he said: 1st, that the people of the Territory were in no condition to form a state government; 2d, that they were too ignorant to form a constitution; 3d, that they were too far removed from Washington to feel the power of the National Government; 4th, that they were, for the most

²² *Western Spy*, February 18, 1800; King — *Ohio*, p. 276; Smith — *St. Clair Papers*, Vol. 1, p. 215.

²³ *Ibid*, February 18, 1880.

part, people who had no ties connecting them with the people of the East, and that it would be very inexpedient to have another state formed whose inhabitants were as Republican as those of Kentucky.²⁴

Governor St. Clair's real intentions regarding the future of the Territory, are, it seems, rather clear. He knew that sooner or later states would be formed out of the Territory, but desired to prolong that process, and thereby his own regime, as long as possible. The smallness of his proposed eastern division would prevent it from having, for some time to come, a sufficient population to be admitted as a state, and after being admitted, it would, in all probability, be a Federalist state; the inhabitants of the Connecticut Reserve country, and the people in and about Marietta being for the most part Federalists.²⁷

The House of Representatives had already appointed a committee to investigate conditions in the Northwest Territory, and Mr. Harrison was made chairman of the committee.²⁶ In its report, the committee recommended a division of the Territory for the purpose of a more satisfactory government; the rapid increase of settlement over so great an area made government from one place difficult and almost impossible. The committee then advised Congress to divide the Territory by an imaginary line, drawn north from a point on the Ohio River opposite the Kentucky River, to Fort Recovery, and thence to the Canadian boundary.²⁷

²⁴ Massie, *Nathaniel Massie*, p. 69; King—*Ohio*, p. 70

²⁵ According to the Ordinance of 1787, 60,000 free male inhabitants, or less conditionally, were necessary for statehood.

²⁶ Smith—*St. Clair Papers*, Vol. 1, p. 214.

²⁷ Ohio Archaeological and Historical Society *Publications*, Vol. 4, p. 130; *Western Spy*, June 11, 1800; Smith—*St. Clair Papers*, Vol. 1, pp 214-216.

On May 7, 1800, Congress passed an act dividing the Territory as recommended by the committee. The act was to take effect July 4, 1800, and the western division was to be called Indiana Territory, with its capital at Vincennes. William Henry Harrison was appointed to be the first Governor and John Gibson, of Pennsylvania, was the first secretary. The capital of the eastern division, which was still to be called the Territory of the United States northwest of the Ohio river, was removed from Cincinnati to Chillicothe, because the latter place was nearer the center of the Territory.²⁸

The removal of the capital from Cincinnati caused quite a stir among the discordant elements in Ohio. Governor St. Clair expressed his belief that Congress had exhausted its power in dividing the Territory without its consent, but the fact that Chillicothe was the center of the Anti-Federalist element, no doubt biased the Governor's opinion of congressional privilege to no small degree. Nevertheless there was enough controversy over the subject to influence Mr. Harrison to write a letter dated May 7, 1800, to the people of the Territory, in which he attempted to defend himself and explain his reasons for recommending the removal of the capital.²⁹ The controversy assumed a political aspect and many heated controversial letters appeared in the Cincinnati newspapers of the period.³⁰

The second session of the first Territorial Legislature met at the call of the Governor at Chillicothe, November 3, 1800, and was addressed by him on Novem-

²⁸ *Western Spy*, June 11, 1800, Letter from Mr. Harrison to the People of Ohio.

²⁹ *Ibid.*

³⁰ *Ibid.*—July 9, August 13, August 27, September 20, September 27.

ber 5.³¹ After having chosen a territorial representative to Congress,³² Mr. Harrison having been made Governor of Indiana Territory, the question of county boundaries and seats of government was again taken up.³³ A committee, composed of Messrs. Massie, Goforth and Worthington, drew up and presented to the Governor a petition, requesting him to reconsider the stand he had taken concerning his right to establish county boundaries, and to return vetoed bills to the House from which they had originated.³⁴ To this petition or remonstrance, the Governor replied in a very polite and gentlemanly manner, but was adamant in his refusal to concede authority.³⁵

At this session of the legislature a resolution was also introduced, which might be called the forerunner of the Division Bill of 1801. The resolution provided for the holding of the legislature at Marietta, Chillicothe and Cincinnati, consecutively, but it was lost by a vote of eight to ten.³⁶

On the 2d of December the Governor notified the Assembly that his term of office would expire on the 9th instant, and owing to the fact that the Secretary, in his opinion, could not legally take his place, the Legislature would be prorogued on that day. Jacob Burnet, who was always a friend and supporter of Governor St. Clair, mentioned how significant it was that this notice of dissolution was given at a time when the Sec-

³¹ *Western Spy*, November 12, 1800.

³² Mr. William McMillan was appointed to Congress until March 4, 1801, and Mr. Paul Fearing was appointed for the two years following.

³³ *Western Spy*, November 19, 1800.

³⁴ *Western Spy*, December 12, 1800.

³⁵ *Ibid*—January 7, 1801. In the reply he made counter propositions which the Legislature would not accept—Burnet, *Notes*, p. 325.

³⁶ *Ibid*, December 10, 1800.

retary, Mr. Byrd, was absent from the capital,³⁷ and it was common knowledge that the Legislature would have been called back into session had the Secretary received notice of their dissolution before they had dispersed to their homes. It was generally accepted that such authority rested with the Secretary.³⁸

The Legislature, although not agreeing that the Governor had a right to dismiss them, knew that he had the power to do so, and did not attempt to remain in session. This arbitrary exercise of authority by the Governor, in connection with the older questions of county boundaries and the absolute veto, caused much unfavorable criticism of him and his regime, and turned the attention of the people toward the formation of a state government. The pages of the *Western Spy* during the fall and winter of 1800 were fairly replete with discussions of the political situation. Each issue contained one or more letters from subscribers, who were in favor of or against the administration. Such literary pseudonyms as *Delector*, *Bystander*, *Palladius* and the like made very frequent appearance.

Owing to the fact that the Governor had not been reappointed at the expiration of his term, the Anti-Federalists decided to make the best of their opportunity in an attempt to accomplish his removal. Accordingly, Thomas Worthington was sent to Philadelphia for that purpose.³⁹ The Federalists knew of the movement on

³⁷ Burnet, *Notes*, p. 327; Smith — *St. Clair Papers*, p. 252.

³⁸ Randall and Ryan — *History of Ohio*, Vol. 3, p. 84.

Mr. Byrd, who at that time was in Cincinnati, had heard rumors that the Legislature was to be prorogued on the 9th, but he thought that it was a trick to prevent certain petitions, praying for the dismissal of the Governor, being sent to the President; if the Governor's term expired on the 9th, his reappointment would be made before the petitions could reach Philadelphia — See references in note (37).

³⁹ Randall and Ryan, *History of Ohio*, Vol. 3, pp. 85-88.

foot and wanted to send Judge Todd of Trumbull County to advocate their cause, but were restrained from doing so by reason of insufficient funds.⁴⁰ However Mr. Worthington was unsuccessful in his mission and on December 22, 1800, President Adams recommended the Governor's reappointment for a term of three years, and the Senate confirmed the appointment February 3, 1801.⁴¹

During the summer of 1801 and especially about election time, there was great agitation over the question of statehood. The inhabitants of Marietta met in a mass meeting and resolved that the people of the Territory should not concern themselves in an attempt to form a state government until they had better provision for their wants, better schools, more improvements, and a larger surplus of money in the Treasury.⁴² On the other hand it was shown that the expenses of the Territory for the year 1800 were \$15,440.00, while the revenue was \$27,926.00.⁴³ Some writers were of the opinion that a state government would attract men of wealth to the Territory, and others thought that the poor who were to work on the farms were more desirable than men of means.⁴⁴

⁴⁰ W. E. Gilmore, *Life of Edward Tiffin*, p. 28.

⁴¹ *Western Spy*, February 11, 1801.

⁴² *Ibid.*

⁴³ *Scioto Gazette*, October 24, 1801.

⁴⁴ *Western Spy*, February 11, 1801: A person from Chillicothe calling himself "A Friend of the People" and writing in the "Scioto Gazette" October 24, 1801, said in part: "Let a change take place. Let a government congenial to Americans be adopted, and it will be like opening the flood gates of a mill, wealth will flow in upon us, improvements and agriculture will adorn our lands; the creeks and rivers emptying into the Ohio will roll along the Mississippi conveying food to thousands suffering from want; manufactures will spring up in the wilderness; proper arrangements for education will be perfected; a new Athens with other seminaries of learning will discover their towering steeples above the lofty oaks, and soon send forth into the world youths ornamental to human nature. Our prolific plains covered with herds, our farms loaded

In October 1801 the members of the second Territorial Legislature were elected and they met in session at Chillicothe November 24, 1801.⁴⁵ Edward Tiffin was chosen President of the Assembly and John Riley Secretary.⁴⁶ During the early days of this session bills were passed incorporating Cincinnati, Dayton and Chillicothe, and establishing a University at Athens, but the most important measure of the Assembly was an act to establish the boundaries of the first three states to be formed out of the Northwest Territory.⁴⁷ The boundaries and capitals of these states as proposed in the act were practically the same as those authorized by Governor St. Clair in his letter to Mr. Harrison, February 18, 1800.⁴⁸

The passage of this act produced great excitement in Chillicothe. When the provisions of the bill became known, mobs broke out and the rioting lasted for two days.⁴⁹ Such a mob gathered and threatened to enter the house of Captain Gregg, in which the Governor and several of his friends lodged,⁵⁰ and, had it not been for

from the lap of plenty gladdening their owners' hearts, and our government like the tree of liberty extending its branches over all our citizens, and with paternal care sheltering and defending them from tyranny and oppression, will cause the astonished traveller to contemplate our rising greatness with amazement and cry out in the language of the venerable Franklin, 'Here dwells liberty — here's my Country'."

⁴⁵ *Western Spy*, December 12, 1801; Smith — *St. Clair Papers*, Vol. 1, p. 222.

⁴⁶ *Ibid.*, December 12, 1801.

⁴⁷ *Ibid.*, December 26, 1801. The vote on the measure was 12 to 8, *St. Clair Papers*, Vol. 1, p. 222.

⁴⁸ Cutler — *Life of Ephraim Cutler*, p. 55.

Thus it will be noticed that the Legislature sustained the Governor in his ideas of Territorial division. But, it must be remembered that this Legislature was elected by a restricted suffrage and no doubt the minority believed that the real popular will rested with them on this subject. The vote was 12 to 8.

⁴⁹ Robert Oliver, in a letter to Griffin Greene, December 29, 1801, quoted in Ohio Centennial Celebration Proceedings — Ohio Arch. and Hist. Society *Publications*, gives a full account of the affair, also Burnet — *Notes*, p. 328.

the timely interference of Mr. Worthington, serious violence might have been done.⁵¹ It seems that the idea of attacking the house developed when some one had overheard Mr. Putman give this toast: "May the Scioto have the borders of two great and flourishing states."⁵²

The next day the Governor gave the names of some of the rioters to Judge Samuel Findley and ordered him to arrest them. The Judge refused to comply with the Governor's order, and being threatened, he immediately resigned.⁵³ The Governor then sent a note to Mr. Tiffin relative to the outbreaks in the city, and requested him to have certain men put in custody for trial.⁵⁴ The remainder of the time that the Legislature was in session was without further disturbance. There was a minority resolution, signed by those who did not favor the Division Bill and an act was passed removing the seat of the Legislature to Cincinnati.⁵⁵

The feeling in the Territory over the question of statehood and the conduct of the Governor was at fever heat. The Anti-Federalists put all persons who could possibly act, under requisition to ride throughout the Territory with petitions praying Congress to admit Ohio as a state. The Governor's public and private life was vilified, his appointments were found fault with, and his arbitrary conduct was censured.⁵⁶ Benjamin Van Cleve characterized the whole country as being "in ferment."⁵⁷

⁵⁰ Cutler, *Ephraim Cutler*, p. 55.

⁵¹ Van Cleve, *Memoirs*, p. 64.

⁵² Cutler—*Life of Ephraim Cutler*, p. 55.

⁵³ *Western Spy*, January 2, 1802.

⁵⁴ *Ibid.*, January 2, 1802.

⁵⁵ *Ibid.*

⁵⁶ Randall and Ryan, *Ohio*, Vol. 3, p. 93; Van Cleve, *Memoirs*, p. 66.

⁵⁷ Van Cleve, *Memoirs*, p. 64.

Governor St. Clair, in a letter to Senator Ross, had spoken of the Democratic-Republican party as being "a damned faction that was dragging the country into ruin." So, on account of this statement and also by reason of the Governor's well-known Federalistic tendencies, his opponents thought that President Jefferson could be induced to remove him from office.⁵⁸ Accordingly, Messrs. Worthington and Baldwin were dispatched to Washington to oppose the passage by Congress of the late territorial act for the division of the Territory, and to secure the removal of the Governor.⁵⁹

For the furtherance of the last purpose the Anti-Federalists decided to draw up a formal list of grievances against the Governor and present them to the President. Nathaniel Massie and Edward Tiffin drew up the list during the early days of February, 1802, and Thomas Worthington presented them to the President on February 20, 1802.⁶⁰ The Governor was alleged to have usurped legislative power, mis-used the veto power, endeavored to influence the Judiciary and to be generally hostile to the Republican government.

There was considerable fear on the part of the friends of the Governor that his removal would be accomplished. Paul Fearing wrote to Ephraim Cutler, January 18, 1802, saying that he was afraid the Governor would be removed, "for he should have been more cautious in his words to Judge Findley." Return J. Meigs also thought he would be removed and said that the conduct of the Governor was such that none could defend it. John Cleve Symmes said that Congress be-

⁵⁸ W. E. Gilmore, *Life of Edward Tiffin*, p. 45; Randall and Ryan, Vol. 3, p. 93.

⁵⁹ Cutler, *Ephraim Cutler*, p. 58.

⁶⁰ Randall and Ryan — *Ohio*, Vol. 2, p. 98.

lieved the people of Ohio were wise enough to make good Republicans, once Governor St. Clair, "that aristocratic old sinner," was out of the way.⁶¹

Governor St. Clair knew of this strong movement on foot to effect his removal and he wrote a letter to the President in self defense. He denied the charges made against him by his opponents; asked the President to remember his long service in the Territory during its formative period; and explained the deep humiliation that removal at this time would cause him. He then made a journey to Washington, and the President, prompted by sympathy, or persuaded by political expediency, did not remove him from office.

During all of this controversy at Washington, the question of statehood was being debated vigorously in the Territory. Those who favored the early admission of Ohio as a state, gave the following reasons: the people were not enjoying the political rights belonging to freemen; neither the Governor nor the Legislative Council was responsible to the people; the appointive power of Congress was being abused; and the Governor controlled the will of the Assembly. On the other hand, the Federalists contended that the grievances were theoretical and not actual, that the appointive power of Congress was compensated for by the payment of the salaries of those appointed, and that statehood should be deferred for at least two years.⁶²

Over these questions there was considerable political oratory during the summer of 1802. Edward Tiffin said that on account of the present government, wealthy

⁶¹ Letter of Symmes to Griffin Greene, quoted in *Ohio Centennial Celebration Proceedings*, p. 87.

⁶² Burnet, *Notes*, p. 339.

and influential people were prevented from coming into the Territory.⁶³ Mr. Worthington spoke of the Governor as "Arthur the First."⁶⁴ General Darlington said that the people would be able soon "To shake off the iron fetters of the aristocracy in the downfall of the Tory party in the Territory."⁶⁵ Judge Symmes said, "We shall never have fair play while Arthur and the Knights of the Round Table sit at the head." At another time Edward Tiffin pictured the Territorial Government as being ill adapted to the genius and feelings of Americans; as having been formulated at a time when civil liberty was not so well understood as it was in 1802; and as contemplating a government of a few over the many.⁶⁶

A writer in the *Western Spy* said that he hailed the day when aristocracy would "receive a vulnerable jab and from its ruins will appear a free and pure republicanism like the sun of glory rising triumphantly and shining forth in voluptuous splendor to illuminate the western hemisphere."⁶⁷ Space does not permit to mention even briefly the numerous men who wrote or spoke during the summer of 1802, but the above examples are fairly typical.⁶⁸

Thomas Worthington's activity at Washington, and the great number of petitions praying for statehood, which were collected by Messrs. Massie and Tiffin must have had a great influence on the House, for that body, on January 27, 1802, rejected the Territorial Division

⁶³ Gilmore, *Life of Edward Tiffin*, p. 37.

⁶⁴ Hinsdale, *The Old Northwest*, p. 310.

⁶⁵ Hinsdale, *The Old Northwest*, p. 310.

⁶⁶ Smith, *St. Clair Papers*, pp. 225-227.

⁶⁷ *Western Spy*, June 16, 1802. Article written by "Plain Truth."

⁶⁸ Articles against statehood in *Western Spy* for February 20, March 15, 1802.

Bill by a vote of eighty-one to five.⁶⁹ Thereupon, Representative Giles of Virginia made a motion to form a committee which would report on the advisability of admitting Ohio as a state, and if favorable, to draw up a plan for admission. From the private correspondence of Mr. Cutler, Mr. Fearing and Mr. Giles, it is evident that even the friends of Governor St. Clair were tired of the discussion and aware of the growing sentiment in Congress for the admission of Ohio, and hence the apparent futility of further contention.⁷⁰

The House committee appointed January 27, made its report on March 20, 1802.⁷¹ This committee, headed by Mr. Giles, went into a detailed discussion of those provisions of the Ordinance of 1787, which provided for the admission into the Union, as a state, of any part of the Northwest Territory, and arrived at the conclusion that the eastern part of that Territory had fulfilled those conditions necessary for admission. The committee, therefore, made the following recommendations: 1st, provision should be made to enable the inhabitants of the eastern part of the Northwest Territory to form a state government and constitution; 2nd, the boundaries of the proposed state should be defined; 3rd, a constitutional convention for this Territory should be arranged; 4th, the number of its members, their proper apportioning, and the qualification of their electors should be determined; 5th, and finally, the new

⁶⁹ Burnet — *Notes*, p. 335; Gilmore — *Life of Tiffin*, p. 48; *Annals of Congress*, 1802, p. 832.

⁷⁰ Cutler — *Life of Ephraim Cutler*, p. 65 and 86; Gilmore, *Life of Tiffin*, p. 30.

⁷¹ *Annals of Congress*, March 20, 1802, p. 1098, et. seq. At this time Congress was rather strongly Republican and therefore willing to sponsor an Anti-Federalist measure. Also they were not adverse to the possibility of having additional Republican electors at the next presidential election.

state should have one delegate in Congress, until its next session.⁷²

On March 30, 1802, an Enabling Act was introduced into the House, which embodies, substantially at least, the suggestions of the committee.⁷³ The act may be briefly summarized as follows: 1st, to permit the inhabitants of the eastern division of the Territory of the United States northwest of the Ohio River to form a constitution and state government and to be admitted to the Union on equal footing with the original state; 2nd, the new state was bounded as follows: on the east by the Pennsylvania line; on the west by a line drawn due north from the mouth of the Great Miami River until it should intersect an east and west line drawn through the southerly bend of Lake Michigan; on the north by an extension of the latter line to Lake Erie, and then by Lake Erie to the eastern boundary; and on the south by the Ohio River; 3rd, all other territory east of the division line of 1800 was to be a part of Indiana Territory; 4th, the suffrage for the election of the delegates to form a constitution was extended to all male citizens who had paid territorial or county tax and had resided within the Territory for one year. These delegates were to be apportioned at the ratio of one for each 1200 inhabitants and the election was to be held on the second Tuesday of October, 1802; 5th, the seat of the convention was named and its first duties were designated; 6th, the Constitution formed by the convention should provide for a Republican government not repugnant to the Ordinance of 1787; 7th, and finally, there were at-

⁷² *Annals of Congress*, Enabling Act introduced into Congress, March 30, 1802, p. 1098.

⁷³ *Ibid.*, March 30, April 8, 1802, pp. 1106-1161, Senate, p. 297.

tached certain propositions concerning school land, salt springs and the taxation of government land within the state.

This act was considered in the House March 30 and 31, 1802.⁷⁴ Debate was opened by Mr. Fearing, the Territorial Representative, who, although declaring himself opposed to the measure, did not make an extended argument. Mr. Griswold (Connecticut) argued that Congress had neither the power nor the right to pass such an act, and asked what would be the result should Congress attempt to interfere with the actions of any state in like manner. This speech was answered by Representative Nicholson, who pointed out the difference in Congressional authority when dealing with states and when dealing with territories. Mr. Griswold again took the floor and made a very strong point of the fact that the Legislature of the Territory, which was the closest representative body of the people, did not favor the change in government. Mr. Williams (North Carolina) answered this with the statement that nine-tenths of the people of Ohio desired a state government, but a petition for the same would never come from its Legislature, as long as there existed an assembly elected by a limited suffrage and controlled by a council and an executive whose offices would expire with the creation of a state government.

The debate in the House was continued on April 8, 1802. There was nothing essentially new presented in the way of argument for or against the measure. Wayne County, which had been included in the eastern

⁷⁴ *Annals of Congress*, 1802, pp. 1106-1156. The northern boundary of Ohio is the subject of a long story by itself. See T. B. Galloway, *Ohio-Michigan Boundary Line*, Ohio State Archaeological and Historical Society, Publications, Vol. 4, p. 204.

division of the Territory by the division line of 1800, was the subject for some discussion, but when a motion was made to alter the northern boundary to include Wayne County, the motion was lost by a vote of 44 to 27.⁷⁵

The Enabling Act was voted on by the House and passed on April 9, 1802. The vote shows that in general the representatives from the south favored, and those from the New England states opposed, the measure. Out of the 47 yeas, Virginia cast 15, Massachusetts 4, and Connecticut none. While out of the 29 nays, Virginia cast 1, Massachusetts 5 and Connecticut cast her entire vote. The south cast 27, the middle states 14, and the New England states 6, of the favorable votes, but of the unfavorable votes, New England furnished 15.⁷⁶

The passage of the Enabling Act was an important event for the future of Ohio. The state, as bounded by this act, is one of the most compact in the Union, but if the Division Bill passed by the Territorial Legislature in 1801, had been successful, Ohio would be a comparatively insignificant state. By this latter bill, the eastern state would have been only one-half as large as the central state, and the western state would have contained 3,259,200 acres more land than the other two.⁷⁷

In the political comment which appeared in the

⁷⁵ *Annals of Congress*, 1802, April 9, p. 1161.

⁷⁶ *Annals of Congress*, 1802, April 9, p. 1161. Passed by the Senate April 28th. This vote is a fairly accurate indication of the political condition of the United States in 1802. The Federalist party was declining as a political power, but it was yet strong in New England. The opposition of New England to the admission of new states reached its highest point at the time of the Hartford Convention, when the delegates demanded no further admission of western states into the Union.

⁷⁷ Thomas Worthington, *Address to the People of Ohio*, Chillicothe, 1802.

Western Spy during the summer of 1802, there is a noticeable amount of anti-slavery agitation. The majority of the writers were in favor of a state government, but they appealed to the voters to elect delegates to the Constitutional Convention, who were opposed to slavery. There were some writers, and among them Judge Burnet, who depreciated the strength of the pro-slavery element within the Territory. Nevertheless it seems reasonable that there would not have been so much concern over the question, had there been no cause. The anti-slavery articles which appeared in the *Western Spy* generally advanced one or all of three arguments: Slavery was wrong by having been placed under a divine anathema; the institution was economically unsuited for a state as far north as Ohio; and it was a moral evil. Biblical references and the principles of the Bill of Rights were the common proofs of the arguments.⁷⁸

Benjamin Van Cleve said, in his diary, that the people of the Virginia Military district believed that Congress had unconstitutionally prohibited slavery there and that many well-to-do Virginians and Kentuckians would come to the Territory, if slavery was allowed. "It was known," he continued, "that there were many in the Scioto country who were strongly in favor of the admission of slavery and that these things influenced many to oppose entering into a state government for fear lest the slave interests, which they supposed had taken the lead, should predominate."⁷⁹

⁷⁸ *Western Spy*, June 26; July 3, 10, 24, 31; August 7, 25; September 11; October 2, 9, 15, 27 and November 17, 1802.

⁷⁹ Van Cleve, *Memoirs*, p. 54; "The Republicans openly advocated slavery and the Federalists opposed it;" * Julia Cutler, *Life of Ephraim Cutler*, p. 67.

One writer declared that the project of statehood was started by Congressmen who owned vast tracts of land near Chillicothe and desired the capital of the state at that place, in order to enhance the value of their land.⁸⁰ There was also a series of five articles in opposition to statehood, written for the *Western Spy*, under the signature of Frank Stubblefield. His main opposition seemed to arise over the voting regulation; the election of the delegates to the convention and the selection of the county officers occurred on the same day but at different places.⁸¹ In reality, however, this objection was insignificant.⁸²

Notwithstanding all this discussion, with the Enabling Act passed, the state party in Ohio had comparatively clear sailing, for the flank of the Federalists was turned and they were powerless. The framers of the act had been exceedingly careful to prevent the Governor from having a voice in the subsequent proceedings. Congress had defined the qualifications for suffrage in the election of the convention, had apportioned the delegates to the inhabitants of the Territory, divided them among the counties, determined the day and place for the elections, and finally had issued instructions to the delegates when elected.⁸³

The Constitutional Convention met at Chillicothe November 1, 1802, and organized for business by selecting Edward Tiffin for its President and Thomas Scott Secretary.⁸⁴ There were thirty-five members, two of

⁸⁰ *Western Spy*, September 1, 1802.

⁸¹ *Ibid*, July 31, 1802.

⁸² *Ibid*, August 7, 1802 — For Articles in favor of statehood see *Spy* for July 3, 10, 24, 31 and October 2, 25; Nov. 17; June 26, 1802.

⁸³ Enabling Act, *Annals of Congress*, 1802; W. E. Gilmore, *Life of Edward Tiffin*, p. 63.

⁸⁴ *Journal of the Convention*, Chillicothe, 1802, p. 5.

whom came from Trumbull County, seven from Fairfield and Ross, and twenty-six from Hamilton, Clermont, Adams, Washington, Belmont and Jefferson.⁸⁵ According to Ephraim Cutler, there were ten Federalists and twenty-four Democrats in the Convention.⁸⁶ On one of the most important committees, the Judiciary, eight of the sixteen members were from Virginia.⁸⁷ Mr. Worthington was a member of six committees and Chairman of two, and Nathaniel Massie, who was an open enemy of the Governor, was the chairman of the supreme executive authority.⁸⁸

The character of the convention and its hostility to the existing government was shown on the second day of its session, when a motion was made to permit "Arthur St. Clair, Esq. to address the convention on those points which he deemed of importance," there were fourteen unfavorable votes cast.⁸⁹ Whatever may have been the feeling of the delegates toward the Governor, this action was not commendable, for he was yet the highest official in the Territory. With seeming malice aforethought, his title as Governor was omitted, and his right to speak questioned.

Having received their consent, the Governor spoke to the convention at some length, and this speech proved to be his undoing. He declared his sense of gratitude to God when he contemplated the great progress of the Territory during the fourteen years of its existence, and sought to impress upon the minds of the delegates

⁸⁵ Washington, Belmont and Trumbull counties were Federalist, the others were along the Ohio River or near Chillicothe and were Republican.

⁸⁶ Gilmore, *Life of Edward Tiffin*, p. 68.

⁸⁷ Cutler, *Life and Times of Ephraim Cutler*, p. 70.

⁸⁸ Massie, *Nathaniel Massie*, p. 86.

⁸⁹ Randall and Ryan, *History of Ohio*, Vol. 3, p. 120.

the magnitude of the task before them, which, he said, they should consider with "candid patriotism and united good will."⁹⁰ In concluding, he made a violent declamation against the National Government, saying that Congress had over-stepped its authority in at least two ways: in calling a convention without the consent of the Territorial Legislature, and in "bartering" away Wayne County like "sheep at a market."⁹¹ President Jefferson characterized the speech as "intemperate and indecorous," and Judge Burnet said it was "sensible and conciliatory."⁹²

On the next day, with only one negative vote,⁹³ the convention decided to form a constitution, and a plan for the same was drawn up. It was to be composed of eight articles and a schedule, each article being drafted by a special committee, read three times before being read for final passage, and treated in passage as a separate bill.⁹⁴

The principal discussions of the convention were over the questions of negro suffrage, the number of legislative sessions (annual or biannual), the submission of the constitution to the people, the salaries of the officials, the qualifications of voters, and the apportionment of Senators and Representatives.⁹⁵ The convention left no detailed record of its debates, hence information as to actual events is exceedingly scarce. Even that which has been handed down from the members of the convention is extremely liable to be biased and prejudiced.

⁹⁰ Hinsdale, *Old Northwest*, p. 321.

⁹¹ Randall and Ryan, *History of Ohio*, Vol. 3, p. 122.

⁹² Cutler, *Life and Times of Ephraim Cutler*, p. 78.

⁹³ *Journal of the Convention*, p. 7.

⁹⁴ *Ibid.*

⁹⁵ Patterson, *Constitutions of Ohio*, p. 30.

The third or Judiciary article seems to have been the hardest contested provision of the constitution.⁹⁶ It came from the pen of Judge Byrd, and, in substance, was a copy of the Virginia code as then practiced. It left final decisions in all cases of considerable moment, to be settled by a general court sitting at the capital of the state. After much discussion, and considerable labor on the part of Ephraim Cutler, the draft was amended to allow sittings of the general court at different places throughout the state.⁹⁷

The slavery question arose at two different times; with the discussion of electoral qualifications and again with the discussion over the Bill of Rights. By the fourth article suffrage was extended, with certain qualifications, to all white male inhabitants. A motion was made to strike out the word "white" but lost by a vote of 14 to 17. Thus, it will be noticed that fourteen men of the convention favored equal suffrage regardless of race.⁹⁸ However, the friends of the negroes got through an amendment to this article, which allowed the negro a vote, if he was a resident and had made a record of his citizenship within six months after the passage of the act. This latter provision carried by a vote of 19 to 15.

The negro supporters thus encouraged, attempted to make provision for the descendants of the negroes who were enfranchised under the above provision. They proposed "that the male descendants of such negroes and mulattoes as shall make record of their citizenship, shall be entitled to the same privilege." One can

⁹⁶ Cutler, *Life and Times of Ephraim Cutler*, p. 72.

⁹⁷ *Ibid*, *Life and Times of Ephraim Cutler*, p. 75.

⁹⁸ *Journal of the Convention*, pp. 19-20; also Massie, *Life of Nathaniel Massie*, p. 86; also Hickok, *The Negro in Ohio*, p. 34.

imagine the warmth of the debate over this measure, for when it came up for final reading, the vote stood seventeen on each side, and the measure was finally stricken out by the casting vote of the President.

The question of slavery again came up when the Bill of Rights or the eighth article was under discussion. The committee which was to draft the eighth article, met with Mr. Tiffin. Mr. Browne proposed that, "no person shall be held in slavery, if a male, after he is thirty-five years of age, or a female after she is twenty-five years of age."⁹⁹ Ephraim Cutler, who was a member of the committee, said that he believed the "handwriting to be that of President Jefferson." He probably meant that such a proposition was in accord with the President's wishes, for the latter had expressed such a desire to Mr. Worthington.¹⁰⁰ However that may be, the proposal made by Mr. Browne was changed so as to prohibit the holding, under pretense of indenture or otherwise, of any male person over twenty-one years of age, or any female of eighteen years of age. This provision was adopted by the committee by a vote of 5 to 4, and was passed by the convention by a vote of 16 to 15.¹⁰¹

On November 13, the convention decided, by a vote of 27 to 7 that they would not submit the completed constitution to the people for their approval or disapproval.¹⁰² This decision called forth a considerable amount of criticism from the anti-state party, who accused the Democrats of being more autocratic than they had so recently said the Federalists were, and cited,

⁹⁹ Cutler, *Life and Times of Ephraim Cutler*, p. 77.

¹⁰⁰ *Ibid.*

¹⁰¹ *Journal of the Convention*, p. 22.

¹⁰² *Ibid.*, p. 33.

not without a hint of irony, the preamble of the constitution which began with "We the People." It may be noted in passing, however, that in refusing to submit the constitution to a referendum, the convention had ample precedent; nine of the original states did not submit their constitutions to the people.¹⁰³

The convention lasted from November 2 to 29, 1802. Altogether there were twenty-five days spent in framing a constitution, and with a total expense of \$4,556.75. Its success was undoubtedly due to the ability of the delegates, their small number and their desire to work with method and accuracy. When a new constitution was framed in 1851, the convention lasted one hundred and thirty-five days and cost the state \$93,364.29.¹⁰⁴

A copy of the constitution was sent to Washington, and on January 7, 1803, a committee was appointed by the Senate to enquire whether or not Legislative action was necessary for the admission of Ohio as a state.¹⁰⁵ The committee reported that the constitution for the state of Ohio conformed to the regulations as provided in the Ordinance of 1787, and, in their opinion, Congress had no other duty than to establish a district court within the state to carry out the laws of the United States therein. Accordingly, such a bill was framed, and was passed by the Senate on February 7, by the House on February 12, and signed by the President on the 19th, 1803. Pursuant to the schedule of the constitution, the election of the Governor, General Assembly and a sheriff and coroner for each county, was

¹⁰³ These states were Delaware, Maryland, New Jersey, New York, North Carolina, South Carolina, Pennsylvania, Virginia and New Hampshire.

¹⁰⁴ Randall and Ryan, *History of Ohio*, Vol. 3, pp. 123-124.

¹⁰⁵ *Annals of Congress*, 1803; also Gilmore, *Life of Edward Tiffin*, p. 90.

to be held on the second Tuesday of January, 1803. Edward Tiffin was the nominee of the Anti-Federalists, and Governor St. Clair was the choice of the Federalists. However, the Governor refused the nomination, and no other choice was made by his party.¹⁰⁶ This, of course, threw the election to Mr. Tiffin.

When did Ohio become a state? This is an old question for debate, for at least four different dates have been championed vigorously. It is held by some people, that Ohio was a state as soon as the Enabling Act was passed April 9, 1802. Others adhere to November 29, 1802, when the constitution for Ohio was completed. I. W. Andrews, at one time President of Marietta College, has written a lengthy argument in favor of February 19, 1803, at which time Congress passed the act to provide for the execution of the National laws within the "State of Ohio." Finally it has been said that Ohio was not a state until the first meeting of the General Assembly, March 1, 1803.

No doubt there are arguments in support of any of these dates, and perhaps the whole question is futile or of comparatively small importance. Nevertheless, it will not be out of place to mention two exceptionally good points in behalf of the latter date. Mr. Fearing, the Territorial Representative to Congress, retained, by express permission of the House, his seat with that body until March 4, 1803. Secondly, Judge Meigs, a Territorial Judge, asked for and received his salary as a Judge, from the Territorial Government until March 1, 1803. Thus, from the viewpoint of Congress, as well as from the Government of Ohio itself, the transition

¹⁰⁶ *Western Spy*, December 8, 1802.

from Territorial Government to statehood did not take place before March 1, 1803.

There is one more event of note in the story of Ohio's struggle for statehood; the dismissal of Governor St. Clair. It has been noted elsewhere that the Governor's speech at the opening of the convention was considered "intemperate and indecorous" by President Jefferson. The President evidently considered this "indecorum and tendency toward a disorganizing spirit," a sufficient reason for the Governor's removal, and such an order was sent to him by the Secretary of State, James Madison, on November 22, 1802.

The letter of dismissal was not sent to him direct, but was sent to Mr. Charles Willing Byrd, the Secretary of the Territory, who became acting Governor. Governor St. Clair and Secretary Byrd were open and avowed enemies, the latter having made personal attacks upon the Governor through the pages of the *Western Spy*.¹⁰⁷ Naturally, the Governor's humiliation at being thus dismissed was very deep and his resentment exceedingly keen.

For us today it is not so very important that Ohio was admitted to the Union *when* it was, but it is vastly important that it was admitted *as* it was. Had the state been carved out of the extreme eastern division of the Territory, it could not have played the part that it has in the affairs of our Nation. Those early pioneers who, driving the Indians before them, planted their cabins in the forests of Ohio, were true apostles of the free political and social institutions that Americans love.

¹⁰⁷ *Western Spy*, October 9, 1802.

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